

Mr. Jon Parry
Department of Environmental Quality
Division of Solid and Hazardous Waste
288 North 1460 West
P.O. Box 14880
Salt Lake City, Utah 84114

April 3, 2009
Project No.: 1811-001A

RECEIVED

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UTAH DIVISION OF
SOLID & HAZARDOUS WASTE

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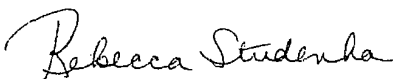
SUBJECT: Amended Site Management Plan
Brickyard Square LLC Property
1235 East 3300 South
Salt Lake City, Utah

On behalf of Brickyard Square LLC, Wasatch Environmental, Inc., has prepared this Amended Site Management Plan detailing activities conducted to date to address soil and groundwater impacts remaining at the Brickyard Square LLC property. The activities described in the following sections of this report have been conducted in accordance with the Revised Risk Assessment Report dated February 6, 2009.

Should you have any questions, please do not hesitate to contact us.

Sincerely,

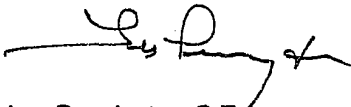
WASATCH ENVIRONMENTAL, INC.



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Project Geologist



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Distribution: (1) Addressee
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(1) Mr. Chris Bittner, DSHW
(1) Mr. Gary Fischer, Brickyard Square, LLC
(1) Ms. Lucy Jenkins, Jones Waldo

**AMENDED SITE MANAGEMENT PLAN
BRICKYARD SQUARE LLC PROPERTY
1235 EAST 3300 SOUTH
SALT LAKE CITY, UTAH**

Project No. 1811-001A

Prepared For

**Mr. Jon Parry
Department of Environmental Quality
Division of Solid and Hazardous Waste
288 North 1460 West
P.O. Box 144880
Salt Lake City, UT 84114**

April 3, 2009

Prepared by

**Wasatch Environmental, Inc.
2410 West California Avenue
Salt Lake City, UT 84104**

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**SITE MANAGEMENT PLAN
BRICKYARD SQUARE LLC PROPERTY
1235 EAST 3300 SOUTH
SALT LAKE CITY, UTAH**

1. INTRODUCTION

On behalf of Brickyard Square LLC, Wasatch Environmental, Inc., has prepared this Amended Site Management Plan to present the planned approach for managing chlorinated solvents remaining in soil and groundwater at the property adjacent east of Tuxedo Junction that is currently owned by Brickyard Square LLC. This Amended Site Management Plan has been prepared in accordance with the requirements of R315-101 "Cleanup Action and Risk-Based Closure Standards" that establishes information requirements to support risk-based cleanup and closure standards at sites for which remediation or removal of hazardous constituents to background levels is not expected to be achieved. The purpose of this Amended Site Management Plan is to support a "No Further Remedial Action Planned" determination by the Division of Solid and Hazardous Waste (DSHW) specifically for the portion of the Brickyard Square LLC property located adjacent east of the Tuxedo Junction described in Section 1.1.

1.1 Site Description

The Brickyard Square LLC property is located at 1235 East 3300 South in Salt Lake City and is further identified as Salt Lake County property tax assessor number 16-294-27-022. The legal description for the property is "COM 33 FT S & 371.27 FT W FR SE COR LOT 1 BLK 27 10 AC PLAT. A BIG FIELD SUR W 118.78 FT N 191 FT S 32° E 221.58 FT TO BEG. 0.23 AC. 9018-0412."

The site is situated at an elevation of 4,360 feet above mean sea level. The area of the target property slopes moderately to the west. Based on local topography, the regional groundwater flow is expected to be toward the west. The Brickyard Square property subject to this Amended Site Management Plan consists of one parcel of land that is currently a vacant lot. It is our understanding that Brickyard Square LLC is planning to develop the property. Proposed development plans include the construction of one slab-on-grade commercial building and associated asphalt parking area (see Figure 2).

1.2 Site Background

A Phase I Environmental Site Assessment (ESA) dated November 26, 2007, and a Limited Phase II Subsurface Investigation (LSI) dated January 8, 2008, were conducted for the Tuxedo Junction property owners by Western Geologic, LLC. The Phase I ESA identified current and past dry cleaning activities conducted at the Tuxedo Junction property, and the LSI identified tetrachloroethene (PCE) in some soil samples collected from the Brickyard Square LLC property.

In April and May of 2008, Wasatch conducted additional subsurface investigative activities on the Brickyard Square LLC property. Analytical results from Wasatch's investigations also identified PCE in soils and groundwater at the Brickyard Square LLC property. Soil analytical results from Western Geologic and Wasatch Environmental investigations are presented on Figure 3.

A human health risk assessment was completed for the Brickyard Square LLC property and submitted to the Utah Division of Solid and Hazardous Waste (DSHW) on July 23, 2008 (revised September 18, 2008) and incorporated in a Site Management Plan submitted to DSHW on July 30, 2008. This risk assessment was based on information collected during previous investigations, combined with the land use on and surrounding the property. The risk assessment determined that there are no exposure pathways that require corrective action; that is, cancer risks are less than 1×10^{-4} and hazard indices are less than 1. Consequently, contaminant concentrations identified at this site were within an acceptable range for commercial and industrial property uses, and site-specific risk-based cleanup levels (SSRBCLs) are not

required for this site. Though federal Maximum Contaminant Levels (MCLs) typically apply at property boundaries, we requested that DSHW waive this requirement for the purposes of a NFRAP determination for the Brickyard Square LLC property. We proposed that the PCE identified at the western property boundary be evaluated in conjunction with additional data collected at the Tuxedo Junction property (activities which are currently underway at the Tuxedo Junction property).

The July 2008 Site Management Plan proposed that no PCE-impacted soil would be removed and institutional controls would be utilized for long-term management of this site. However, given that Wasatch identified chlorinated solvents in groundwater above federal MCLs, DSHW recommended, and it was ultimately agreed, that soil be removed in the area where the highest concentration of PCE was identified on the Brickyard Plaza property.

2. SUMMARY OF SITE ENVIRONMENTAL CONDITIONS

As part of the January 2008 Western Geologic LSI, three borings were advanced on the Brickyard Square LLC property east of the Tuxedo Junction property. Western Geologic collected soil samples from each boring at 5, 10, and 15 feet below ground surface (bgs). The total depth of investigation was 15 feet bgs and groundwater was not encountered. The highest concentration of PCE identified by Western Geologic was 690 ug/kg from boring location TJ-SE at a depth of 10 feet bgs. Boring TJ-SE was located on the western-central boundary of the Brickyard Square LLC property, approximately 5 feet from the Tuxedo Junction building. Subsequent interview information indicated that a former employee reportedly dumped dry cleaning residue in the approximate area of TJ-SE.

To further define the horizontal and vertical extent of chlorinated solvents on the Brickyard Square LLC property, Wasatch conducted additional investigation activities in April and May 2008. The Wasatch investigation included the completion of seven borings with depths ranging from 15 feet bgs to 33 feet bgs, and the collection of 10 near surface samples. The results of this investigation are presented in Wasatch's "Limited Subsurface Investigation Results" report that was submitted to DSHW on June 11, 2008.

Based on the analytical results from all previous investigations, PCE was not identified in the soils at concentrations exceeding U.S. EPA Region 9 Industrial Preliminary Remediation Goals (PRGs). Wasatch also identified PCE in groundwater at a concentration of 23 ug/L near Western Geologic TJ-SE, and 3.1 ug/L farther to the east.

The highest concentrations of chlorinated solvent constituents on the Brickyard Square LLC property appeared to be limited to an isolated area at or near the Tuxedo Junction property boundary in the vicinity of TJ-SE. The objective of the Soil Excavation Work Plan was to excavate and remove soil in the area where the highest concentration of PCE was identified (690 ug/kg) on the Brickyard Plaza property.

3. INITIAL REMOVAL OF PCE-IMPACTED SOIL

3.1 South Excavation

On December 11, 2008, Wasatch initiated excavation activities to remove the PCE-impacted soil in the area of Western Geologic boring TJ-SE. During our April 2008 investigation activities, Wasatch personnel placed flag markers at each surface soil sample location, and the excavation area was initially delineated by using sample location flag SS6 as a reference point. However, once excavation activities were started and field measurements were taken based on the southern roof line of the Tuxedo Junction building, it was clear that the excavation was approximately 20 feet south of Western Geologic boring TJ-SE (a contractor had recently utilized the Brickyard Plaza property to park equipment and the flag marking SS6 was likely moved).

The location of TJ-SE was recalculated from both the southern roofline and the northern roofline of the Tuxedo Junction building and further confirmed with the Tuxedo Junction manager, Dee Shirts. The TJ-SE excavation area was then relocated based on these measurements. The southern excavation was

backfilled with 1-inch minus imported fill material and compacted to a minimum of 95% relative compaction.

Based on soil samples collected from the previous investigations, the excavated material was determined to be outside of the impacted soil area, which was further supported by the results from samples collected as part of excavation activities conducted on the Tuxedo Junction property (which will be presented under separate cover). Therefore, the material removed from this excavation (approximately 8 to 10 yards) was spread across the southern portion of the site.

3.2 TJ-SE Excavation Area

Soil removed from the TJ-SE excavation area (northern excavation) was removed and immediately placed in an end dump truck. Excavated soils consisted primarily of tight clays. Excavation activities continued to 12 feet below grade, the approximate depth where the soils transitioned from tight clay to gravel. The base of the excavation measured 6 feet north-to-south by 5 feet east-to-west. The top of the excavation measured 10 feet north-to-south and 5 feet wide east-to-west. The western edge of the excavation was 3 feet east of the Tuxedo Junction building, and followed the approximate eastern boundary of the Tuxedo Junction property. The TJ-SE excavation area is depicted on Figures 4 and 5.

Approximately 12 yards of soil were removed from the TJ-SE excavation area. In accordance with the November 20, 2008, approval from DSHW, the material was transported as "contained-out" non-hazardous waste soils to U.S. Ecology Idaho, Inc., a RCRA Subtitle C landfill.

Undisturbed confirmation soil samples were collected from the excavation utilizing the Method 5035A sample collection method. Method 5035A is a technique for gathering and introducing soil samples for volatile analysis that greatly decreases loss of analyte due to microbial degradation and volatilization. Sidewall samples were collected directly from the four sidewalls at approximately 5 feet bgs by penetrating the sample tool directly into the excavation sidewalls and placing collected soil into the appropriate sample vials. The sidewall sample depth was selected based on previous investigation activities, which had consistently reported concentrations of PCE at this interval. In addition, one undisturbed soil sample was collected by penetrating the soil sampling tool directly from the base of the excavation and placing the collected soil into the appropriate vials. All samples vials were stored in coolers with either ice (high level sample collection vials) or dry ice (low level sample collection vials) for transport to the laboratory. The TJ-SE excavation was then backfilled with 1-inch minus imported fill material and compacted to a minimum of 95% relative compaction.

Confirmatory soil samples collected from the excavation were transported under chain of custody and submitted to American West Analytical Laboratory for analysis of volatile organic compounds using U.S. EPA Method 5035A closed-system purge-and-trap extraction for volatile organics in soil. PCE was reported at a concentration of 58 ug/kg in the north sidewall sample, 180 ug/kg in the east sidewall sample, 130 ug/kg in the south sidewall sample, and 960 ug/kg in both the west sidewall and excavation bottom samples.

4. ADDITIONAL EXCAVATION ACTIVITIES

Given the concentrations of PCE identified in the excavation bottom and the west sidewall confirmatory soil samples (both reporting 960 ug/kg), additional excavation activities were conducted on December 19, 2008. The compacted fill material previously placed in the excavation area of TJ-SE was removed and stockpiled on site, and the excavation was extended to 14.5 feet bgs. The excavated soil encountered from 12 to 14.5 feet bgs consisted primarily of gravel and cobbles.

The confirmatory sample results from the December 11, 2008, excavation activities were below the "contained out" determination provisions (the EPA Region 9 Industrial Soil Preliminary Remediation Goal of 1,300 ug/kg). Further, the Western Geologic LSI reported PCE at a concentration of 4.1 ug/kg at 15

feet bgs at sample location TJ-SE. Therefore, the deeper soils excavated from the TJ-SE area were placed in an end dump for shipment as "contained out" non-hazardous waste.

One undisturbed soil sample was collected from bulk soil that was removed from the base of the excavation by the trackhoe (Sample ID Bottom@15'). The collected soil sample was submitted to Data Chem for same-day analysis of volatile organic compounds using U.S. EPA Method 5035A closed-system purge-and-trap extraction for volatile organics in soil. Laboratory results reported PCE at a concentration of 28 ug/kg. Approximately 8 cubic yards of soil was removed from the excavation.

Once laboratory results confirmed that the limits of the excavation had been achieved on the Brickyard Square property, additional excavation was attempted extending west onto the adjacent property. However, dry cleaning sludge and debris were encountered on the adjacent property. Because the limits of the excavation had been achieved on the Brickyard Square property, excavation activities were discontinued and the Brickyard Square excavation was backfilled. Additional exploratory excavation, removal of the dry cleaning sludge and debris, and soil confirmatory samples were conducted on the adjacent property at a later date and under a separate agreement as reported in Wasatch's February 27, 2009, "Soil Excavation Report."

5. SITE-SPECIFIC RISK-BASED CLEANUP LEVELS

Wasatch has completed the removal of highest concentrations of PCE-impacted soil identified at the Brickyard Plaza property. The highest identified concentration of PCE in soil remaining on the Brickyard Plaza property is 250 ug/kg reported from the soil sample collected from GP-1/SB-1A at 5 feet below grade.

As discussed in Section 1.2, a human health risk assessment was completed for the Brickyard Square LLC property and submitted to the DSHW on July 23, 2008 (revised September 18, 2008) and incorporated in a Site Management Plan submitted to DSHW on July 30, 2008. A Revised Risk Assessment has been completed to reflect the lower concentrations of chlorinated solvents remaining on the site after the December 2008 removal action, as well as updated U.S. EPA guidance (U.S. EPA, 2009). The Revised Risk Assessment dated February 6, 2009 was included as part of Wasatch's February 9, 2009, "Soil Excavation" report.

The Revised Risk Assessment determined that there are no exposure pathways that require corrective action or other mitigation for commercial/industrial land use given that cancer risks are less than 1×10^{-6} and hazard indices are less than 1. Consequently, contaminant concentrations identified at this site are within an acceptable range for commercial and industrial property uses, and site-specific risk-based cleanup levels (SSRBCLs) are not required for this site. Though federal MCLs typically apply at property boundaries, we requested that DSHW waive this requirement for the purposes of a NFRAP determination for the Brickyard Square LLC property. We proposed that the PCE identified at the western property boundary be evaluated in conjunction with additional data collected at the Tuxedo Junction property (activities which are currently underway at the Tuxedo Junction property).

6. SITE MANAGEMENT

Based on the results of the site investigations and soil removal activities conducted for the Brickyard Square LLC property, the Revised Risk Assessment, and the proposed commercial use of the property, additional active remedial/cleanup activities are not warranted at the site. Wasatch proposes the use of institutional controls in the form of an Environmental Covenant for long-term management at the site.

6.1 Institutional Controls

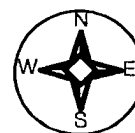
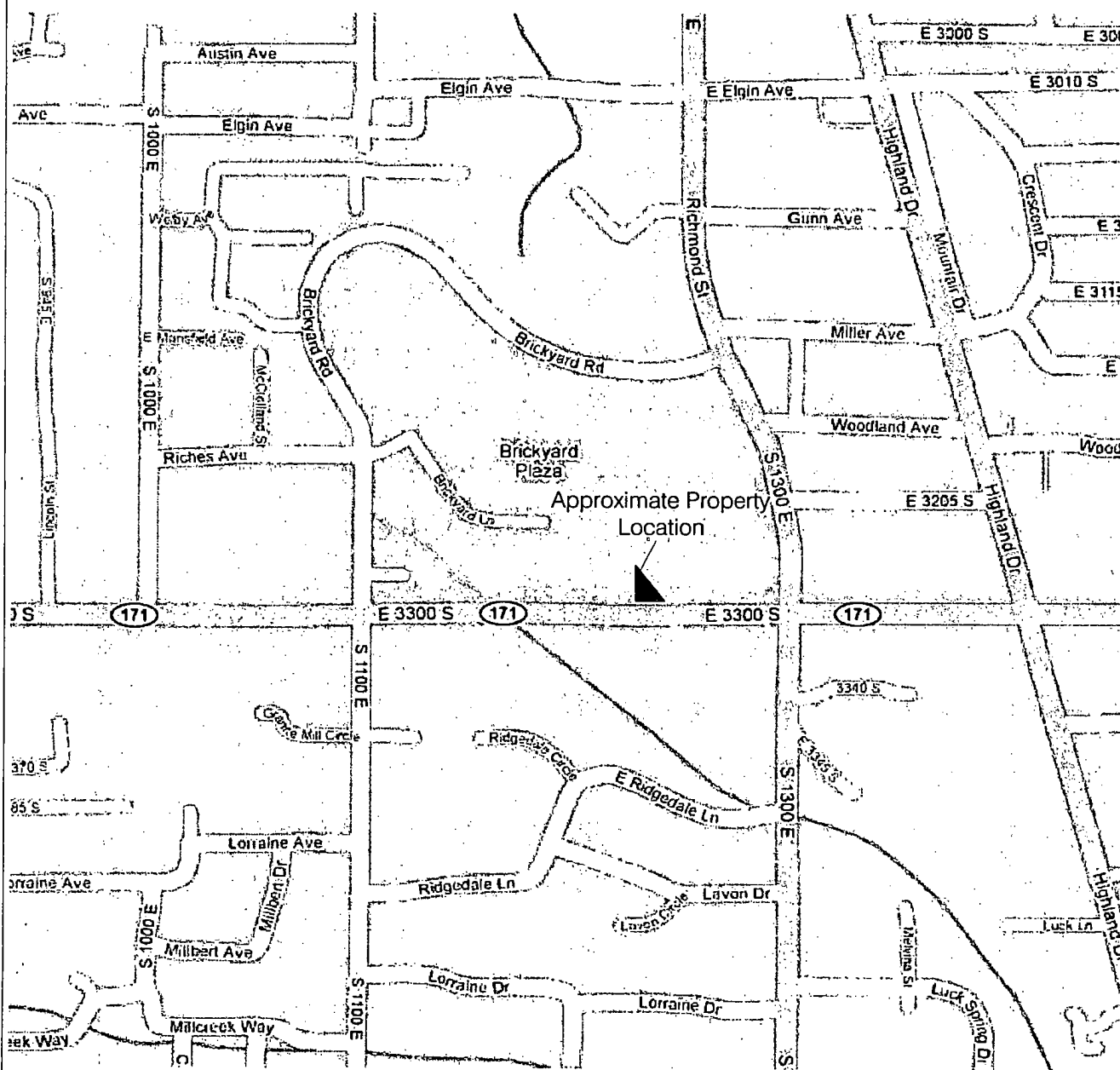
As indicated in the February 6, 2009, "Revised Risk Assessment" completed for the site, there are no exposure pathways that require corrective action or other mitigation for commercial/industrial land use

given that cancer risks are less than 1×10^{-6} and hazard indices are less than 1. Consequently, contaminant concentrations identified at this site are within an acceptable range for commercial and industrial property uses, and site-specific risk-based cleanup levels (SSRBCLs) are not required for this site. Therefore, the property owners agree that the property shall not be developed for residential use or use as a day care. In addition, for the protection of construction workers, future subsurface earthwork shall require the implementation of appropriate health and safety precautions.

PCE was detected in the groundwater above federal MCLs at one boring location near the western property boundary. Therefore, as part of the Site Management Plan, the owners of the property agree that use of the groundwater on the Brickyard Square LLC property shall be prohibited for any purpose. There shall be no installation of any groundwater well, except those approved by Utah Department of Environmental Quality, on the Brickyard Square LLC property. This restriction may be removed if future groundwater sample data demonstrates that concentrations of PCE are below federal MCLs.

An institutional control will be filed for recording in the form of an Environmental Covenant with the Salt Lake County Recorder's Office. A copy of the proposed Environmental Covenant is attached as Appendix A.

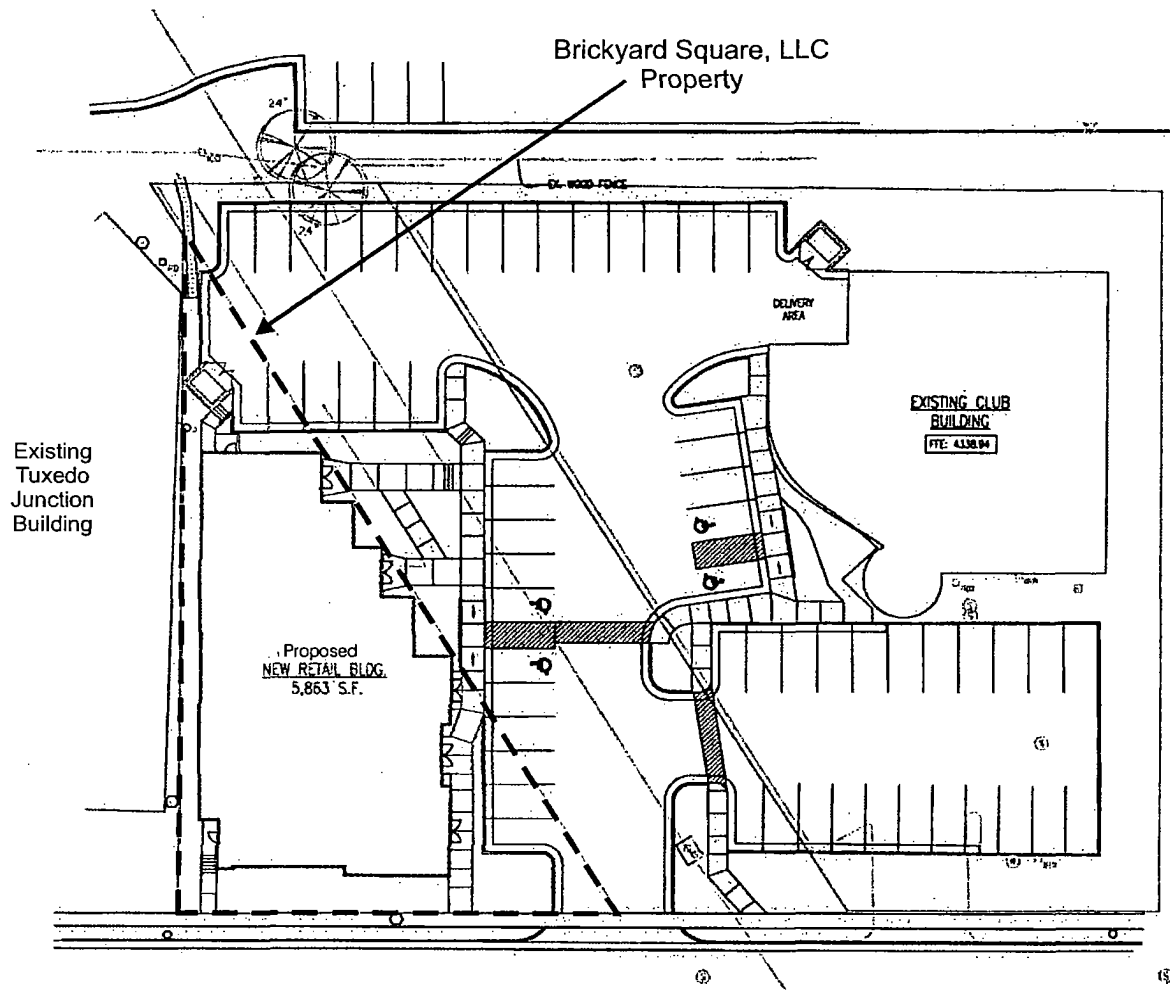
BRICKYARD SQUARE, LLC, PROPERTY WEI 1811-001



Vicinity Map

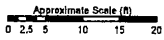
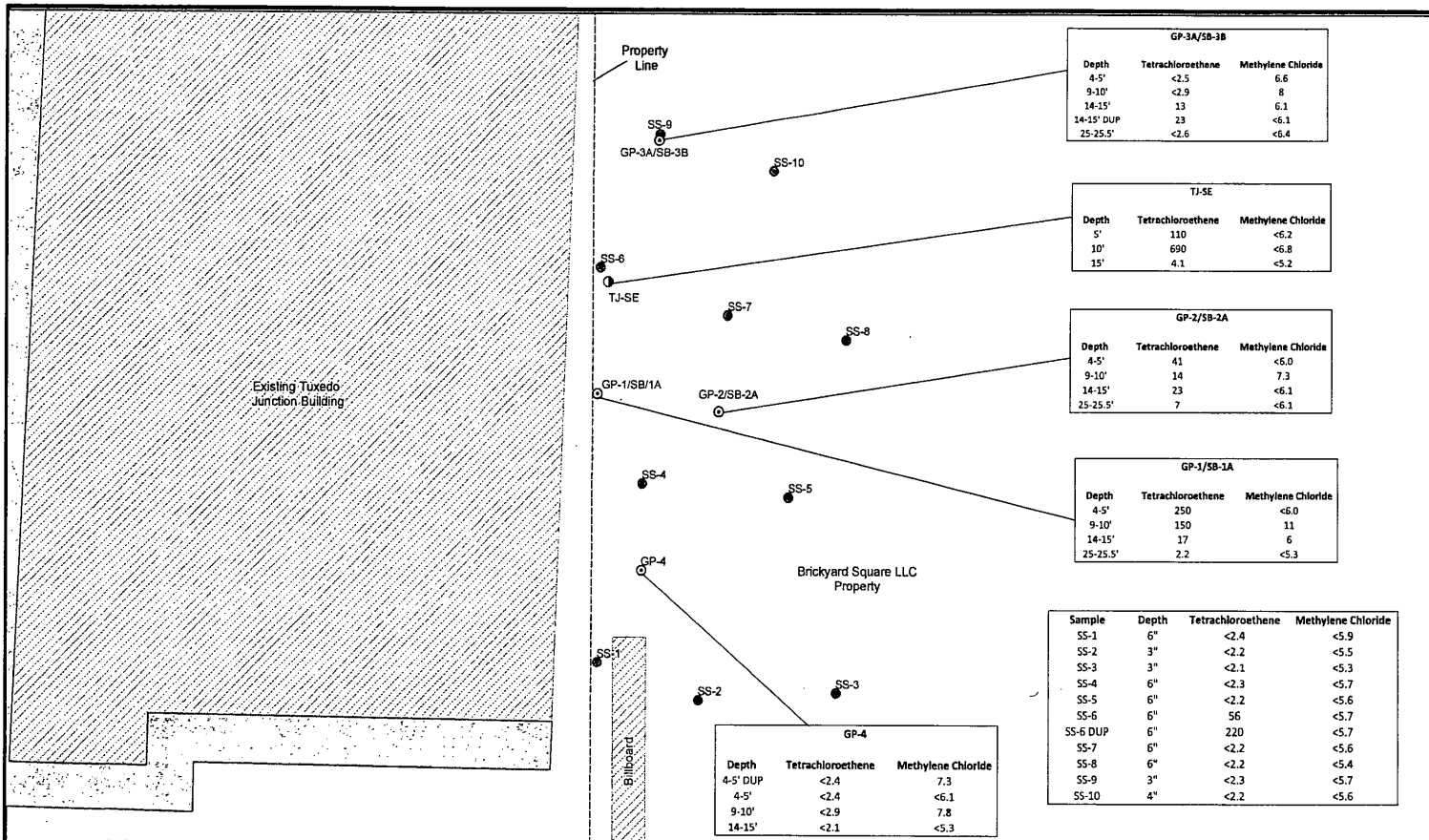
Figure 1

BRICKYARD SQUARE, LLC, PROPERTY WEI 1811-001



Parcel Map

Figure 2

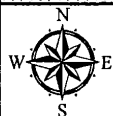
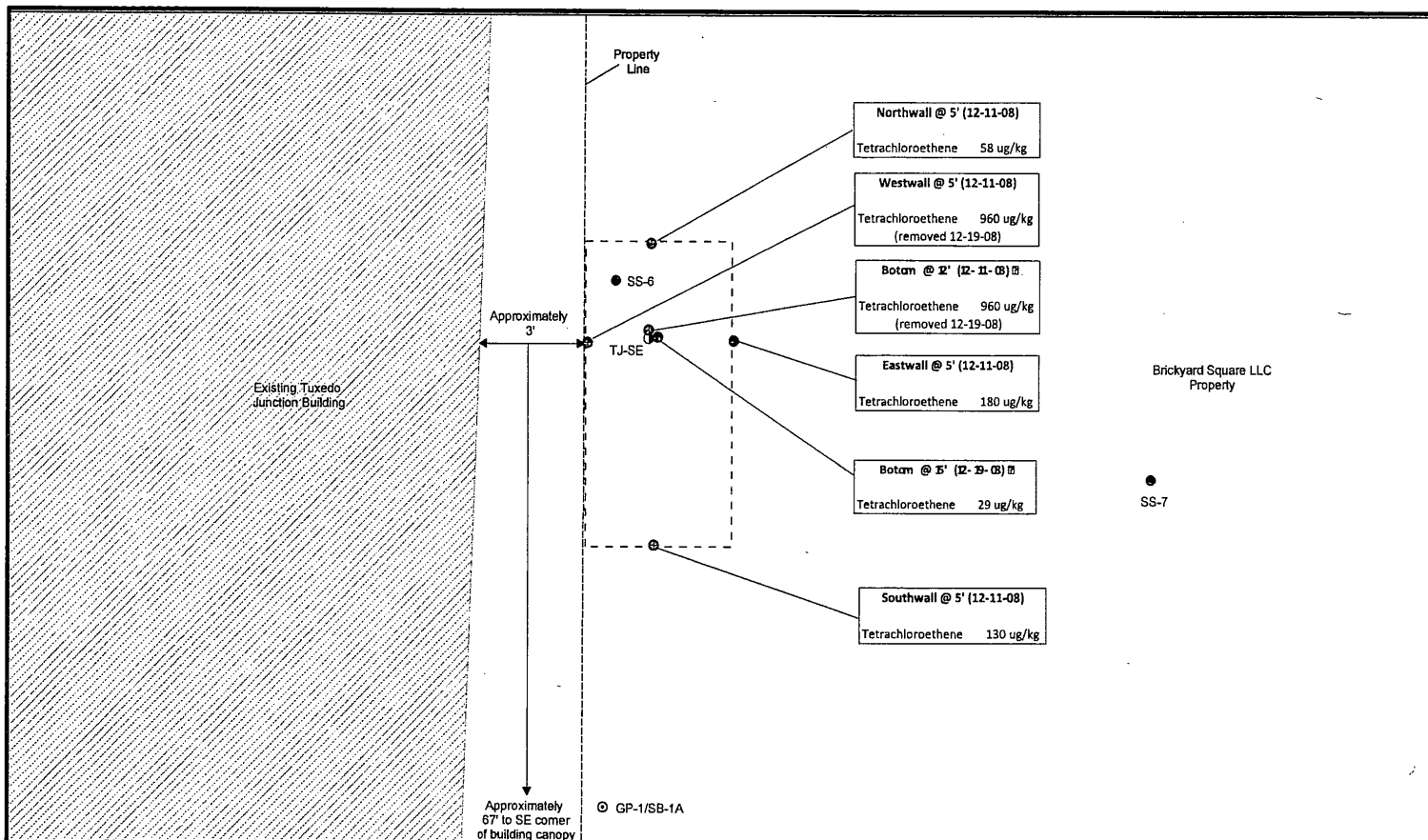


NOTE: All Sample Concentrations in ug/kg (ppb)

- ⊙ Wasatch Boring Sample
- Near Surface Soil Sample
- 2007 Western Geologic Boring Sample

WASATCH
ENVIRONMENTAL
Environmental Science and Engineering

BRICKYARD SQUARE LLC SOIL ANALYSES FROM PREVIOUS INVESTIGATIONS		
Brickyard Square, LLC Property 1235 East 3300 South Salt Lake City, Utah		
PROJECT NO.	DRAWING DATE	FIGURE
1811-001	January 9, 2009	3



- Wasatch Boring Sample
- Near Surface Soil Sample
- ⊗ 2007 Western Geologic Boring Sample
- ⊗ December 2008 Wasatch Soil Sample Location



Environmental Science and Engineering

BRICKYARD SQUARE LLC EXCAVATION AND SOIL SAMPLE LOCATION MAP

Brickyard Square, LLC Property
1235 East 3300 South
Salt Lake City, Utah

PROJECT NO.	DRAWING DATE	FIGURE
1811-001	January 9, 2009	4

Appendix A
Environmental Covenant

EXISTING TUXEDO
JUNCTION BUILDING

VENT

FEET FROM SOUTHEAST
CORNER OF EXISTING BUILDING

60' 67' 70'

DEPTH BELOW
GROUND SURFACE (FT)

5'

12'

14.5'
15'

Eastwall @ 5' (12-11-08)
Tetrachloroethene (PCE) 180 ug/kg

Southwall @ 5' (12-11-08)
Tetrachloroethene (PCE) 130 ug/kg

Northwall @ 5' (12-11-08)
Tetrachloroethene (PCE) 58 ug/kg

Westwall @ 5' (12-11-08)
Tetrachloroethene (PCE) 960 ug/kg
(Removed 12-19-2008)

Bottom @ 12' (12-11-08)
Tetrachloroethene (PCE) 960 ug/kg
(Removed 12-19-2008)

Bottom @ 15' (12-19-08)
Tetrachloroethene (PCE) 29 ug/kg



SCALE: 1" = 6'



December 2008 Wasatch
Soil Sample Location



BACKYARD SQUARE REMEDIATION
CROSS SECTION AND SOIL
ANALYTICAL RESULTS

BACKYARD SQUARE

PROJECT NO.	DRAWING DATE	FIGURE 8
1811-001	January 28, 2009	

**To be recorded with County
Recorder – Utah Code Ann § 57-25-108**

When Recorded Return To:
Brickyard Square LLC
c/o Gary Fischer
237 B Street
Salt Lake City, Utah 84103

With Copy To:
Dennis R. Downs, Executive Secretary
Utah Solid and Hazardous Waste Control Board
P.O. Box 144880
Salt Lake City, UT 84114-4880

ENVIRONMENTAL COVENANT

1. This Environmental Covenant is entered into by Brickyard Square LLC ("Owner") and the Executive Secretary-DSHW of the Utah Solid and Hazardous Waste Control Board (Executive Secretary), pursuant to Utah Code Ann. §§ 57-25-101 et seq. for the purpose of subjecting the Property described in paragraph 2, below, to the activity and use limitations set forth herein.

Site History

2. The Brickyard Square LLC property is located at 1235 East 3300 South in Salt Lake City and is further identified as Salt Lake County property tax assessor number: 16-294-27-022. The legal description of the property is "COM 33 FT S & 371.27 FT W FR SE COR LOT 1 BLK 27 10 AC PLAT. A BIG FIELD SUR W 118.78 FT N 191 FT S 32° E 221.58 FT TO BEG. 0.23 AC. 9018-0412.

3. Wasatch was contracted by the owners of the Tuxedo Junction property to review a Phase I Environmental Site Assessment (ESA) dated November 26, 2007, and a Limited Phase II Subsurface Investigation (LSI) dated January 8, 2008, conducted for the Tuxedo Junction property by Western Geologic, LLC. The Phase I ESA identified current and past dry cleaning activities conducted at the Tuxedo Junction property.

4. As part of the January 2008 Western Geologic LSI, three borings were advanced on the Brickyard Square LLC property east of the Tuxedo Junction property. Western

Geologic collected soil samples from each boring at 5, 10, and 15 feet below ground surface (bgs). The total depth of investigation was 15 feet bgs and groundwater was not encountered. The highest concentration of tetrachloroethene (PCE) identified by Western Geologic was 690 ug/kg from boring location TJ-SE at a depth of 10 feet bgs. Boring TJ-SE was located on the western-central boundary of the Brickyard Square LLC property, approximately 5 feet from the Tuxedo Junction building.

5. To further define the horizontal and vertical extent of PCE impacts on the Brickyard Square LLC Property, Wasatch Environmental conducted additional investigation activities in April and May 2008. The Wasatch investigation included the completion of seven borings with depths ranging from 15 feet bgs to 33 feet bgs and the collection of 10 near surface samples. The results of this investigation are presented in Wasatch's "Limited Subsurface Investigation Results" report that was submitted to DSHW on June 11, 2008.

6. Based on the analytical results from all previous investigations, PCE was not identified in the soils at concentrations exceeding U.S. EPA Region 9 Industrial Preliminary Remediation Goals (PRGs). However, Wasatch identified PCE in groundwater at a concentration of 23 ug/L near Western Geologic boring TJ-SE, above its Federal Maximum Contaminant Level (MCL) of 5 ug/L and at concentration of 3.1 ug/L farther to the east.

7. Due to the fact that PCE was identified in the groundwater at a concentration in exceedance of its federal MCL, Utah Division of Solid and Hazardous Waste recommended, and it was ultimately agreed, that soil be removed in the area where the highest concentration of PCE was identified on the Brickyard Square LLC property (isolated area at or near the Tuxedo Junction property boundary in the vicinity of TJ-SE).

8. On December 11, 2008, Wasatch initiated excavation activities to remove the PCE-impacted soil in the area of Western Geologic boring TJ-SE. Approximately 12 yards of soil were removed from the TJ-SE excavation. Confirmatory soil samples were collected from the base and sidewalls of the excavation. Analytical results indicated that PCE was reported at a concentration of 58 ug/kg in the north sidewall sample, 180 ug/kg in the east sidewall sample, 130 ug/kg in the south sidewall sample, and 960 ug/kg in both the west sidewall and excavation base samples.

9. Given the concentrations of PCE identified in the excavation base and west sidewall confirmatory soil samples (both reporting 960 ug/kg), additional excavation activities were conducted on December 19, 2008. The base of the excavation was extended to approximately 15 feet bgs. One confirmatory soil sample was collected from the base of the excavation. Laboratory results reported PCE at a concentration of

28 ug/kg. Approximately 8 cubic yards of soil were removed.

10. Once laboratory results confirmed that the limits of the excavation had been achieved on the Brickyard Square property, additional excavation was attempted extending west onto the adjacent property. However, dry cleaning sludge and debris were encountered on the adjacent property. Because the limits of the excavation had been achieved on the Brickyard Square property, excavation activities were discontinued and the Brickyard Square excavation was backfilled. Additional exploratory excavation, removal of the dry cleaning sludge and debris, and soil confirmatory samples were conducted on the adjacent property at a later date and under a separate agreement.

11. The environmental response project is referred to as the Brickyard Square LLC Property, 1235 East 3300 South, Salt Lake City, Utah. The project administrative records are maintained and managed by the Utah Department of Environmental Quality, Division of Solid and Hazardous Waste. Based on the analytical results from all previous investigations, vertical and horizontal delineation has been completed on the Brickyard Square LLC Property. Based on site topography, groundwater flow direction at the site is expected to be towards the west.

12. Based on the analytical results from all previous investigations, the highest identified concentration of PCE remaining on the Brickyard Square LLC property is 250 ug/kg reported from the soil sample collected from GP-1/SB-1A at 5 feet bgs. The highest concentration of PCE in water was 23 ug/L identified by Wasatch at boring SB-1A at 25 feet bgs, also located approximately 5 feet east of the Tuxedo Junction building, just south of boring TJ-SE.

AGREEMENT

13. Now therefore, Owner Brickyard Square LLC and the Executive Secretary agree to the following:

14. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to Utah Code Ann. §§ 57-25-101 et seq.

15. Property. This Environmental Covenant concerns parcel number 16-294-27-022 owned by Brickyard Square LLC, located at 1235 East 3300 South, Salt Lake City, in

Salt Lake County, Utah, and more particularly described in Paragraph 2 hereto and hereby incorporated by reference herein ("Property").

16. Owner. Brickyard Square LLC which is located at 237 B Street, Salt Lake City, Utah is the owner of the Property.

17. Holder. Owner, whose address is listed above, and which is located at 237 B Street, Salt Lake City, Utah is the holder of this Environmental Covenant.

18. Activity and Use Limitation. In accordance with the Site Management Plan, Owner hereby imposes and agrees to comply with the following activity and use limitations:

- Use of groundwater on the Brickyard Square LLC property shall be prohibited for any purpose. There shall be no installation of any groundwater well, except those approved by Utah Department of Environmental Quality, on the Brickyard Square LLC Property.
- The property shall not be used for residential or day care activities.
- For the protection of construction workers, future subsurface earthwork shall require the implementation of appropriate health and safety precautions.

19. If any event or action by or on behalf of a person or entity who owns an interest in or holds an encumbrance on the Property, identified in paragraph 15 above, constitutes a breach of the activity and use limitations, Owner or Transferee shall notify the Executive Secretary within 30 days of becoming aware of the event or action, and shall remedy the breach of the activity and use limitations within 60 days of becoming aware of the event or action, or such other time frame as may be agreed to by the Owner or Transferee and Executive Secretary.

20. Running with the Land. This Environmental Covenant shall be binding upon the Owner[s] and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to Utah Code Ann. § 57-25-105, subject to amendment or termination as set forth herein. The term "Transferee," as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees,

easement holders, and/or lessees.

21. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to Utah Code Ann. § 57-25-111. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the Executive Secretary from exercising any authority under applicable law.

22. Rights of Access. Owner hereby grants to the Executive Secretary, its agents, contractors, and Holders and employees the right of access to the Property for implementation or enforcement of this Environmental Covenant.

23. Compliance Reporting. Owner or any Transferee shall submit to the Executive Secretary on an annual basis written documentation verifying that the activity and use limitations remain in place and are being complied with.

24. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED _____, 2009, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE _____ COUNTY RECORDER ON _____, 2009, IN [DOCUMENT _____, or BOOK _____, PAGE _____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

- Use of groundwater on the Brickyard Square LLC property shall be prohibited for any purpose. There shall be no installation of any groundwater well, except those approved by Utah Department of Environmental Quality, on the Brickyard Square LLC Property.
- The property shall not be used for residential or day care activities.
- For the protection of construction workers, future subsurface earthwork shall require the implementation of appropriate health and safety precautions.

25. Owner shall notify the Executive Secretary within 10 days after each conveyance of an interest in any portion of the Property. Owner's notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and an unsurveyed plat that shows the boundaries of the property being transferred.

26. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- A. that the Owner is the sole owner of the Property;
- B. that the Owner holds fee simple title to the Property which is
free, clear and unencumbered;
- C. that the Owner has the power and authority to enter into this
Environmental Covenant, to grant the rights and interests herein provided
and to carry out all obligations hereunder;
- D. that the Owner has identified all other persons that own an interest in or
hold an encumbrance on the Property and notified such persons of the
Owner's intention to enter into this Environmental Covenant; and
- E. that this Environmental Covenant will not materially violate or contravene
or constitute a material default under any other agreement, document or
instrument to which Owner is a party or by which Owner may be bound or
affected;

27. Amendment or Termination. This Environmental Covenant may be amended or terminated by written consent of all of the following: the Owner or a Transferee; and the Executive Secretary,¹ pursuant to Utah Code Ann. § 57-25-110 and other applicable law. The term, "Amendment," as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. The term, "Termination," as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set

¹ See Utah Code Ann § 57-35-104 (2) (e), which allow for "limitations on amendment or termination."

forth herein and all other obligations under this Environmental Covenant.

28. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

29. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Utah.

30. Recordation. Within 30 days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the Salt Lake County Recorder's Office.

31. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a document of record for the Property with the Salt Lake County Recorder.

32. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: the Executive Secretary; the city of Salt Lake, Salt Lake County, any "Holder," any lessee, each person who signed the Environmental Covenant, each person holding a recorded interest in the Property; and any other person designated by the Executive Secretary; see Utah Code Ann. §§ 57-25-107].

33. Notice. Unless otherwise notified in writing by or on behalf of the current owner or the Executive Secretary, any document or communication required by this Environmental Covenant shall be submitted to:

Mr. Dennis R. Downs, Executive Secretary
Utah Solid and Hazardous Waste Control Board
P.O. Box 144880
Salt Lake City, Utah 84114-4880

The undersigned representative of the Owner represents and certifies that he is

authorized to execute this Environmental Covenant.

IT IS SO AGREED:

[NAME OF OWNER/S]

Signature of Owner[s]

Printed Name and Title

Date

State of _____)

County of _____)

ss:

Before me, a notary public, in and for said county and state, personally appeared _____, a duly authorized representative of _____, who acknowledged to me that *[he/she]* did execute the foregoing instrument on behalf of _____.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this ____ day of _____, 20__.

Notary Public

Utah Solid and Hazardous Waste Control Board

Dennis R. Downs, Executive Secretary

Date _____

State of Utah)
) ss:
County of Salt Lake)

Before me, a notary public, in and for said county and state, personally appeared Dennis R. Downs, Executive Secretary of the Utah Solid and Hazardous Waste Control Board, who acknowledged to me that he did execute the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this ____ day of _____, 20__.

Notary Public

[NAME OF HOLDER]

Signature of Holder

Printed Name and Title

Date _____

State of _____)
County of _____) ss:

Before me, a notary public, in and for said county and state, personally appeared _____, a duly authorized representative of _____, who acknowledged to me that *[he/she]* did execute the foregoing instrument on behalf of _____.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this ____ day of _____, 20__.

Notary Public

This instrument prepared by:

Wasatch Environmental, Inc.
2410 West California Avenue
Salt Lake City, Utah 84104